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C O N F I D E N T I A L SECTION 01 OF 02 TAIPEI 001924

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DEPT FOR EAP/TC
DEPT PLEASE PASS AIT/W
AMEMBASSY BEIJING PLEASE PASS TO AMCONSUL CHENGDU

E.O. 12958: 04/25/2015

TAGS: ECON EINV CH TW

SUBJECT: UMC CHAIRMAN FINED, INVESTIGATION CONTINUE

REFS: (A) TAIPEI 709, (B) TAIPEI 1402

CLASSIFIED BY AIT DIRECTOR DOUGLAS H. PAAL, REASON 1.4 D

Summary

¶11. (U) Taiwan's Financial Supervisory Commission (FSC) announced on April 20 that it would fine United Microelectronics Co. (UMC) Chairman Robert Tsao NT\$ 3 million (USD 95,000) for two separate violations of failure to disclose important information to stockholders. The information concerned UMC's relationship with Mainland semiconductor manufacturer He Jian. The FSC has indicated that it has completed this stage of its investigations into UMC but could reopen the case depending on the results of investigations by other Taiwan agencies. Meanwhile, Taiwan's Investment Commission continues to look into UMC's relationship with He Jian and to review UMC's application to accept a 15-percent stake in the PRC firm in compensation for consulting services provided. The Hsinchu County Prosecutors Office of the Ministry of Justice also continues its investigations into UMC. End Summary.

FSC - First Sanction Against UMC

¶12. (U) On April 20, Taiwan's Financial Supervisory Commission (FSC) announced that it would fine United Microelectronics Co. (UMC) Chairman Robert Tsao a total of NT\$ 3 million (USD 95,000) for two separate violations. Tsao was fined NT\$ 600,000 (USD 19,000) for failure to

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disclose to shareholders in 2002 that it provided managerial and administrative assistance to He Jian Technology (Suzhou) Co. in exchange for an oral commitment that He Jian would provide some return to UMC at a later date. In addition, Tsao must pay NT\$ 2.4 million (USD 76,000) -- the maximum fine -- for late disclosure of the March 4 Board of Directors decision to accept a 15-percent stake in He Jian in exchange for UMC's previous assistance. UMC did not announce the decision until March 17, well after the two-day limit allowed under Taiwan law.

¶13. (U) FSC Deputy Director General Lee Chi-hsien told the press that the FSC would now close this stage of its investigation into FSC. It has no further plans to impose sanctions against the firm unless or until further evidence of malfeasance appears. Depending on the findings of the investigations of other government agencies, FSC may reopen the case to look at additional violations.

MOEA - Investigating Violations, Reviewing Application

¶14. (SBU) The Ministry of Economic Affairs (MOEA) Investment Commission continues its review of the He Jian case from two angles. First, the Commission is considering whether He Jian violated the "Act Governing People's Relations Across the Taiwan Strait" by transferring prohibited technology to the PRC. Emile Chang, the Commission's Deputy Executive Secretary, told AIT/T that if UMC is found guilty of such a violation it faces a fine of up to NT\$ 25 million (USD 790,000). He would not speculate on how long the Commission would take to complete its investigations.

¶15. (SBU) Second, the Commission is reviewing UMC's proposal to accept He Jian's offer to turn over a 15-percent stake in the firm. The Commission must determine whether such a proposal meets Taiwan's strict regulations on semiconductor investment. Chang expressed some skepticism, but refused to predict whether the Commission would approve the proposal. It appears unlikely that such an investment could meet current Taiwan regulations. He Jian already uses technology that Taiwan firms are prohibited from transferring to the Mainland. According to press reports, MOEA Minister Ho Mei-yueh hinted quietly that although UMC could not accept shares, it might be permitted to accept other forms of remuneration in exchanging for the managerial consulting assistance that it claims to have provided He Jian.

Ministry of Justice - Keeping Quiet

16. (U) Meanwhile, the Hsinchu County Prosecutors Office under the Ministry of Justice continues its investigations into criminal wrongdoing by UMC. It has revealed few details on the progress of its investigation and the evidence it has recovered from raids on UMC's offices and interviews with UMC and He Jian executives. The prosecutors have not indicated when they might file charges. However, the travel ban imposed on 19 UMC and He Jian employees has been lifted. The He Jian employees who had been stuck in Taiwan since the Lunar New Year holiday in February have returned to the Mainland. Three employees are still prohibited from leaving Taiwan.

Comment - Environment of Uncertainty

17. (C) The wheels of justice continue to grind slowly in the He Jian case. To date, the fines that have been imposed or threatened are low compared to the potential gains if UMC is successful in legalizing its stake in He Jian. It is hard to estimate the legal costs that UMC faces, let alone the costs imposed by the damage to its reputation. However, if the Taiwan government expects its cross-Strait economic policies to have any teeth, it will have to make it clear that UMC faces serious legal sanctions. Otherwise, Taiwan's companies and entrepreneurs will see little reason not to circumvent Taiwan law and invest illegally in the Mainland. The results will have an impact on Taiwan's ability to enforce export controls that are important to U.S. interests. The UMC case also shows that while Taiwan's cross-Strait restrictions are failing to keep advanced technologies out of the PRC, they are placing those firms that observe the letter of the law at a disadvantage. Taiwan needs to rationalize these policies in a way that allows Taiwan firms to compete but preserves the island's vital interests as well. End comment.

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